

SENATE BILL REPORT

ESHB 3186

As of March 17, 2010

Title: An act relating to imposing a tax on home and community based services to fund services for seniors and people with disabilities.

Brief Description: Imposing a tax on home and community based services to fund services for seniors and people with disabilities.

Sponsors: House Committee on Finance (originally sponsored by Representatives Pettigrew, Walsh, Williams, Hunt, Green, Dickerson, Kagi, Goodman, Orwall, Llias, Seaquist, White and Appleton).

Brief History: Passed House: 3/10/10, 65-32; 3/16/10, 61-32.

Committee Activity: Ways & Means: 3/17/10.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Megan Atkinson (786-7446)

Background: Washington has two major taxes on business revenues – the business and occupation (B&O) tax and the state public utility tax (PUT).

The B&O tax is imposed on the gross receipts of business activities conducted within the state. The state B&O tax rate varies by business activity and as a result, a business may have more than one B&O tax rate. Service activities are generally taxed at a rate of 1.5 percent. Revenues from the B&O tax are deposited in the state's general fund. Additionally, cities can impose a B&O tax.

The PUT applies to public service businesses, as defined in RCW 82.16. As with the B&O, the PUT is applied to the gross receipts of the business. The PUT tax rate depends on the business classification. Classifications include:

- distribution of water (5.029 percent),
- generation/distribution of electrical power (3.873 percent),
- telegraph, distribution of natural gas, and collection of sewerage (3.852 percent);
- urban transportation and watercraft vessels (0.642 percent),
- hauling of logs (1.3696 percent), and
- railroads and motor transportation (1.926 percent).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Businesses that pay the PUT are exempt from the B&O tax on the same activity.

Finally, certain exemptions, credits, deductions and other preferences exist for both the B&O and PUT. For example, many B&O taxpayers with annual taxable activity under \$28,000 and PUT taxpayers with annual taxable activity under \$24,000 do not have to file tax returns. The B&O tax also allows a deduction of government payments made to nonprofit businesses that provide health care services and therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, physically-disabled, developmentally-disabled, or emotionally-disabled individuals. The PUT does not have a similar exemption.

The Aging and Disability Services Administration (ADSA) within the Department of Social and Health Services (DSHS) manages numerous programs that provide community and in-home care for eligible clients. Three of the commonly used programs for individuals with developmental disabilities are supported living, group homes, and state operated living alternatives (SOLA). These programs provide habilitation, instruction, and support to clients who live in their own homes or in the community. Supports may vary from a few hours per month up to 24 hours per day of one-to-one support. In fiscal year 2009, services for ADSA clients in supported living, group homes, and SOLAs totaled about \$106 million general fund-state.

Adult day health businesses provide a daytime program for adults who need skilled nursing care or a licensed rehabilitative therapist. In fiscal year 2009, services for adult day health clients totaled approximately \$10 million general fund-state, including transportation.

Summary of Bill: Community residential service business is defined as a business that is licensed and/or certified by ADSA to provide habilitation, instruction, and support to clients who have a disability as defined in RCW 71A.10.020(3). This definition will include supported living vendors, group homes, group training homes, and SOLAs.

Adult day health business is defined as a business providing care, meals, social activities, and skilled therapeutic services at adult day health centers.

Community residential service businesses and adult day health businesses are added to the PUT at a rate of 5.029 percent.

The new Community Residential Investment Account is created. Eighty-one percent of the revenue from the tax on community residential service businesses must be deposited into this account. Money in the account may be used to increase rates paid to community residential services businesses over amounts provided in the 2009-11 Biennial Appropriations Act, to increase compensation to staff, or to increase the number of individuals receiving services.

The Home and Community Based Services Investment Account is created. Eighty-one percent of the revenue from the taxes on adult day health businesses is deposited into this account. Money in the account may be used for home and community based services provided by ADSA. Existing rate caps on local B&O taxes to community residential service businesses and adult day health businesses are retained.

Provides that if the Centers for Medicare and Medicaid Services (CMS) determine that federal matching funds are not available for any of the appropriations made from the two accounts above, then the PUT tax on community residential service businesses and adult day health businesses will cease to be imposed.

The Joint Legislative Audit and Review Committee (JLARC), in consultation with DSHS and the Department of Revenue, is directed to conduct a review of the PUT tax imposed on community residential service businesses and adult day health businesses. The review is to consider the benefits of the taxes, compliance with the taxes, and determinations by CMS related to the taxes, administrative costs, other administrative issues and other appropriate issues. The report is due by December 1, 2015.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.